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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/632,395   | 07/31/2003  | Ray Andrew Maloney   | 330342              | 2920             |
| 7590   | 05/19/2004  |                      | EXAMINER            |                  |
| Peter Loffler<br>P.O. Box 1001<br>Niceville, FL 32588-1001 |             |                      | PRUNNER, KATHLEEN J |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 3751                |                  |

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                 |                     |
|------------------------------|---------------------------------|---------------------|
| <b>Office Action Summary</b> | <b>Application No.</b>          | <b>Applicant(s)</b> |
|                              | 10/632,395                      | MALONEY, RAY ANDREW |
|                              | Examiner<br>Kathleen J. Prunner | Art Unit<br>3751    |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

#### A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 31 July 2003.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-17 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-17 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 31 July 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>073103</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____ .                                  |

## **DETAILED ACTION**

### *Drawings*

1. The drawings are objected to because: (A) in Fig. 3, the two different parts should be either bracketed together to indicate that they constitute a single figure or labelled separately as individual figures; and (B) in Figs. 2, 3 and 5, the toothpaste T should be shown as a fluid paste (note the Hough reference) rather than a material that resembles a steel wool scrubbing pad. A proposed drawing correction is required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
2. Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect may be deferred until after the examiner has considered the proposed drawing correction. Failure to timely submit the proposed drawing correction will result in the abandonment of the application.

### *Specification*

3. The following informalities in the specification are noted: (A) on page 9, line 19, "I" should read --If--; (B) on page 10, line 1, "t" should read --T--; and (C) on page 10, line 2, a period should be inserted after "30". Appropriate correction is required.

### *Claim Objections*

4. Claim 17 is objected to under 37 CFR 1.75(b) as being a duplicate of claim 10. Claims 10 and 17 do not differ from each other and thus constitute duplicates of each other.

### *Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 4, 5, 8-12 and 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Hough. Hough discloses a toothbrush 20 having all the claimed features including a handle 22 having a first top surface and a first bottom surface (note Figs. 1 and 2), a head 26 connected to the handle and having a second top surface and a second bottom surface (note Figs. 1 and 2), a plurality of bristles 28 located on the second top surface of the head 26, a reservoir (constituted by recess 30) having toothpaste 36 therein located within the handle, and a first cover 38 covering the reservoir 30 (note Fig. 2). With respect to claims 4 and 11, Hough also discloses that the reservoir 30 is disposed within the first top surface of the handle (note Fig. 3) such that the first cover 38 is positioned on the first top surface in order to cover the reservoir 30. With regard to claims 5 and 12, Hough further discloses that the reservoir 30 extends through to the first bottom surface of the handle 22 (note Fig. 3). With regard to claim 8, Hough additionally discloses a channel (constituted by passage 32) disposed on the first top surface of the handle and extending between the reservoir 30 and the handle 22 (note Fig. 1). With respect to claims 9 and 14, Hough further discloses a single opening 34 disposed within the second top surface of the head 26, a duct (constituted partly by passage 32) connecting the opening 34 with the reservoir 30, and wherein placing pressure on the cover 38 causes the toothpaste 36 to pass through the duct 32 and exit through the opening 38 (note Fig. 1). With respect to claims 10, 15 and 17, Hough additionally discloses that the duct 32 is disposed along a longitudinal axis of the handle (note Fig. 1). With regard to claim 16, Hough also discloses an opening 34 disposed within the second top surface of the head 26, a duct (constituted by passage 32) connecting the opening 34 with the reservoir 30, a bladder (constituted by blister cover 38) covering the reservoir 30, and wherein placing pressure on the bladder 38 causes the toothpaste 36 to pass through the duct 32 and exit through the opening 34 (note Fig. 1).

7. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Greenberg. Greenberg discloses a toothbrush having all the claimed features including a handle 10 having a

first top surface and a first bottom surface (note Fig. 1), a head 12 connected to the handle 10 and having a second top surface and a second bottom surface (note Fig. 1), a plurality of bristles 14 located on the second top surface of the head 12, a reservoir (constituted by the dentifrice chamber) having toothpaste or dentifrice 18 therein located within at least a portion of the handle 10 (note Fig. 3), and a first cover (constituted by sealing means 30) covering the reservoir (note Fig. 3). With respect to claim 2, Greenberg also discloses a tab 32 attached to the cover 30 for facilitating removal of the cover from a covering relationship with the reservoir (note Fig. 7).

8. Claims 1, 3, 8-10 and 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Sherman. Sherman discloses a toothbrush having all the claimed features including a handle 10 having a first top surface and a first bottom surface (note Figs. 1 and 2), a head 14 connected to the handle 10 and having a second top surface and a second bottom surface (note Figs. 1 and 2), a plurality of bristles 18 located on the second top surface of the head 14, a reservoir (constituted by cartridge 36) having toothpaste or dentifrice 48 therein located within the handle 10, and a first cover (constituted by bulb 64) covering the reservoir (note Fig. 2). With respect to claim 3, Sherman also discloses that at least a portion of the bristles 18 are ramped downwardly toward the handle 10 (note Figs. 1, 2 and 6). With regard to claim 8, Sherman further discloses a channel (constituted by bore 20) disposed on the first top surface of the handle and extending between the reservoir and the handle 10 (note Fig. 2). With respect to claims 9 and 14, Sherman additionally discloses a single opening (note Fig. 2 and lines 45-48 in col. 2) disposed within the second top surface of the head 14, a duct (constituted by bore 20) connecting the opening with the reservoir, and wherein placing pressure on the cover 64 causes the toothpaste or dentifrice 48 to pass through the duct 20 and exit through the opening (note Figs. 1 and 3). With respect to claims 10, 15 and 17, Sherman additionally discloses that the duct 20 is disposed along a longitudinal axis of the handle 10 (note Fig. 2). With regard to claim 16, Sherman also discloses an opening (note Fig. 2 and lines 45-48 in col. 2) disposed within the second top surface of the head 14, a duct (constituted by bore 20) connecting the opening with the reservoir (note Fig. 2), a bladder (constituted by bulb 64) covering the reservoir, and wherein placing pressure on the

bladder 64 causes the toothpaste or dentifrice 48 to pass through the duct 20 and exit through the opening (note Figs. 1 and 3).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 6, 7 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hough in view of Glassman et al. With respect to claims 6 and 13, although Hough fails to disclose a second cover that is positioned on the bottom surface of the handle, attention is directed to Glassman et al. who disclose another toothbrush having two covers (constituted by diaphragm areas 18) disposed on both faces or surfaces of the handle 11. It would have been obvious to one of ordinary skill in the toothbrush art, at the time the invention was made, to provide the handle of Hough with a second cover that is positioned on the first bottom surface of the handle in view of the teachings of Glassman et al. in order to provide more force in ejecting the toothpaste/dentifrice especially when the supply of toothpaste/dentifrice is getting low. With respect to claim 7, Hough also discloses a channel (constituted by passage 32) disposed on the first top surface of the handle and extending between the reservoir 30 and the handle 22 (note Fig. 1).

***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Kathleen J. Prunner whose telephone number is 703-306-9044.

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12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory L. Huson can be reached on 703-308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kathleen J. Prunner

May 14, 2004



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